

REMARKS

The Office Action of July 1, 2010, has been reviewed and these remarks are responsive thereto. Claims 12, 13, 27, and 28 have been canceled in the present paper, and claims 2, 15, 16, and 24 were previously canceled, all without prejudice or disclaimer. Claims 30-32 are new. No new matter has been added. Claims 1, 3-11, 14, 17-23, 25, 26, and 29-32 are pending upon entry of the present paper. Reconsideration and allowance of the instant application are respectfully requested.

Rejections under 35 U.S.C. § 101

Claim 29 stands rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. This rejection is traversed below.

Claim 29 has been amended in the present paper so as to be directed to a non-transitory computer readable medium as suggested in the Office Action at page 2. Thus, the section 101 rejection is moot upon entry of the present paper.

Rejections under 35 U.S.C. § 103

Claims 1, 8-9, 14-15, 23-24 and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. publication no. 2002/0085540 to Hyvarinen et al. ("Hyvarinen") in view of U.S. pat. no. 6,556,820 to Le et al. ("Le"). Claims 3-6 and 17-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hyvarinen and Le in further view of U.S. pat. no. 6,044,091 to Kim ("Kim"). Claims 7 and 21-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hyvarinen, Le, and Kim, and in further view of U.S. pub. no. 2002/0160757 to Shavit et al. ("Shavit"). Claims 10-13 and 25-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hyvarinen and Le, and in further view of U.S. pat. no. 7,283,550 to Duncan et al. ("Duncan"). These rejections are traversed below.

Amended independent claim 1 recites, among other features, "detecting the availability of the second telecommunication system by defining a load parameter of the second telecommunication system and by considering the second telecommunication system as unavailable when the load parameter reaches a threshold value, wherein the load parameter is

based on uplink load as a function of an interference contribution, signal to noise ratio, and a service activity factor.”

Illustrative, non-limiting support for the amended features of claim 1 may be found in the filed specification when read as a whole, and for example, at page 13, line 20 – page 14, line 6 (describing an “uplink” pole capacity formula as being based on f (a parameter that takes account of an interference contribution), SNR (signal to noise ratio), and SAF (service activity factor)). The above-noted features recited in claim 1 are similar to features previously recited in now-canceled claims 12 and 13. The Office Action at pages 9-10 concedes that Hyvarinen and Le fail to teach or suggest the features of claims 12 and 13, but contends that Duncan (at col. 1, lines 27-34 and col. 5, line 62 – col. 6, line 5) describes such features. In particular, in rejecting claim 13, the Office Action at page 10 asserts that pole capacity is the amount of users utilizing resources. Regardless of whether pole capacity as previously recited in claim 13 could have been analogized (or equated to) the amount of users utilizing a given resource, Duncan fails to teach or suggest detecting the availability of a second telecommunication system by defining a load parameter of the second telecommunication system and by considering the second telecommunication system as unavailable when the load parameter reaches a threshold value, wherein the load parameter is based on uplink load as a function of an interference contribution, signal to noise ratio, and a service activity factor as recited in amended claim 1. Indeed, Duncan is completely silent with respect to any alleged load parameter being based on uplink load as a function of an interference contribution, signal to noise ratio, and a service activity factor. Accordingly, amended claim 1 is distinguishable from the applied documents for at least the foregoing reasons.

Claims 14 and 29 each recite features similar to those discussed above with respect to claim 1 and are allowable for at least similar reasons.

The rejected dependent claims are distinguishable from the applied documents for at least the same reasons as their respective base claims, as any of the additional documents (e.g., Kim and Shavit) fail to remedy the deficiencies of Hyvarinen, Le, and Duncan described above (notwithstanding whether any of the alleged combinations of documents would have been proper).

New Claim(s)

Claims 30-32 are new and are illustratively supported by the filed specification when read as a whole, and for example, at page 14, lines 16-22.

As discussed above, the applied documents fail to teach or suggest detecting the availability of a second telecommunication system by defining a load parameter of the second telecommunication system and by considering the second telecommunication system as unavailable when the load parameter reaches a threshold value, wherein the load parameter is based on uplink load as a function of an interference contribution, signal to noise ratio, and a service activity factor, much less that the load parameter is further based on a load associated with a downlink connection and the availability of spreading codes as recited in claims 30-32. Claims 30-32 are distinguishable from the applied documents for at least these additional reasons.

CONCLUSION

If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit Deposit Account No. 19-0733, accordingly.

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,
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